

COPY

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

NINA SHAHIN,

Plaintiff,

v.

STATE OF DELAWARE
DEPARTMENT OF FINANCE

Defendant,

C.A. No. 06-289 GMS

FILED
CLERK U.S. DISTRICT COURT
DISTRICT OF DELAWARE
2007 JUL 20 PM 12:52


**PLAINTIFF'S MOTION FOR COURT ORDER OF WAIVER OF COSTS IN
PLAINTIFF'S REQUEST TO THE DELAWARE DEPARTMENT OF
ACCOUNTING FOR INFORMATION IN COMPLIANCE WITH DELAWARE
FOIA**

The Plaintiff, Nina Shahin, files this Motion to ask the court to approve her request for waiver of costs associated with her request to the Department of Accounting for information on the amounts the State received from federal government and terms on which those monies were given to the State of Delaware.

On July 5, 2007 the Plaintiff filed a request with the Department of Accounting for information related to the monies the State received in 2004 from the federal government and information contained in the Delaware Comprehensive Annual Financial Report (CAFR) (Exhibit A).

The Plaintiff received a response from the Director of Accounting Department asking for \$ 682.50 to pay for the research and copying (Exhibit B). The Plaintiff does not have such an amount and proceed with this case in Forma Pauperis. Section 10003(b) of the Delaware FOIA mentions only copying costs and the Plaintiff did not ask for any

copies of any documents. Yet the Plaintiff needs the requested information to justify her claim in her Opening Brief for the waiver of the State Sovereign Immunity under the doctrine of federal power of a spending purse.

The Plaintiff, therefore, respectfully asks this court for an order ~~for~~  a waiver of these costs.

Submitted on this day of 18th of July, 2007.

PLAINTIFF



NINA SHAHIN

**103 Shinnecock Rd.
Dover, DE 19904
(302)678-1805**

DATED: July 18, 2007

CERTIFICATE OF MAILING AND/OR DELIVERY

The undersigned certifies that on July 18, 2007, she caused the attached *Plaintiff's Motion For Court Order Of Waiver Of Costs In Plaintiff's Request To The Delaware Department Of Accounting For Information In Compliance With Delaware FOIA* to be delivered to the following persons in the form and manner indicated:

NAME AND ADDRESS OF RECIPIENTS:

1. **U.S. District Court**
844 King Street
U.S. Courthouse
Wilmington, DE 19801


MANNER OF DELIVERY:

Original and a copy by certified mail with return receipt

2. **Stephani J. Ballard, # 3481**
Deputy Attorney General
Department of Justice
State of Delaware
Carvel State Office Building
820 North French Street, 6th fl.
Wilmington, DE 19801
Attorney for Defendant

MANNER OF DELIVERY:

Two true copies by first class mail with confirmation of receipt



Nina Shahin

July 18, 200

Nina Shahin, CPA, MAS, M
103 Shinnecock Rd.
Dover, DE 19904



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844 King Street
U.S. Courthouse
Wilmington, DE 19801

U.S. DISTRICT COURT
DOVER, DE



NINA SHAHIN, CPA, MAS, MST
103 SHINNECOCK RD. DOVER, DE 19904

Tel. (302) 678-1805

Fax (302) 678-0219

E-mail: nshahin@comcast.net

RECEIVED

2007 JUL 17 P 3:17

July 5, 2007

Director of Accounting
540 South DuPont Highway
Thomas Collins Building, Suite 3
Dover, DE 19901

Dear Ms Neely:

In accordance with my right as a citizen of Delaware and in compliance with the Freedom of Information Act I would like to obtain some additional information regarding the Comprehensive Annual Financial Report of the State of Delaware (CAFR) for fiscal 2004. In particular, I would like to get the following information related to the 2004 CAFR:

1. It appears that the federal government indicates that the state of Delaware was a recipient of federal funds for 2004 in the following amounts:

Third quarter of 2003	-	\$ 1,531,993
Fourth quarter of 2003	-	1,776,696
First quarter of 2004	-	1,596,802
Second quarter of 2004	-	<u>1,604,421</u>

Total \$ 6,509,912 (see the relevant information from the U.S. Census Bureau as Attachment # 1)

2. CAFR number for the fiscal year 2004 that ended June 30, 2004 shows amount of only \$ 841,652 (see a copy as Attachment # 2) which is considerably smaller (actually 87% smaller than the US Census Bureau shows in its reports). Would you be so kind to explain what accounts for the difference?
3. On page 85 of CAFR (Notes to Financial Statements for the same period, see in Attachment # 3) the Department indicates that the financial assistance by the federal government was provided "upon compliance with terms and conditions of the grant agreements and applicable federal regulations". Would you be so kind to indicate which agencies and departments of the State received what amount of federal assistance and on which terms.

Your kind assistance in obtaining this information on a timely basis is greatly appreciated.

Sincerely,

A handwritten signature in cursive script, appearing to read "N. Shahin".

Nina Shahin, CPA

Attachments:

- # 1. Copies of the "Federal Assistance Award Data System" from the US Census Bureau for the fiscal 2004 (a-d).
- # 2. Copy of the page 24 of CAFR for the fiscal 2004.
- # 3. Copy of the page 85 of CAFR for the fiscal 2004.

Attachment # 1(a)

Federal, State, and Local Governments Federal Assistance Award Data System 2004 2nd Quarter - Summary Table

Main

Back To 2004 2nd Quarter FAADS

DELAWARE		Dollar Amounts in Thousands				Record Count
Type of Assistance	Total Funding	Federal Funding	Non-Federal Funding			
Block Grant	1,690	1,690	-			2
Formula Grant	222,054	211,613	10,441			362
Project Grant	66,549	63,522	3,025			249
CO-OP Agreements	7,398	5,863	1,432			31
Direct Assistance - Specified Use	218,831	218,831	-			281
Direct Assistance - Unspecified Use	453,858	453,817	41			51
Direct Loan	1,118	1,118	-			17
Guaranteed/Uninsured Loans	84,170	82,310	1,859			77
Insurance	546,593	546,553	39			4
Other	-	-	-			-
Total	1,621,257	1,604,421	16,837			1,074

Source: U.S. Census Bureau, Governmental Division

Created: July 19 2006

Last revised: November 02 2006

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U.S. CENSUS BUREAU

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Attachment # 1(b)

Federal, State, and Local Governments

Federal Assistance Award Data System

2004 1st Quarter - Summary Table

Main

Back To 2004 1st Quarter FAADS

DELAWARE					Dollar Amounts in Thousands		
Type of Assistance	Total Funding	Federal Funding	Non-Federal Funding	Record Count			
Block Grant	1,743	1,743	-	4			
Formula Grant	178,202	174,596	3,606	383			
Project Grant	30,662	28,587	2,095	219			
CO-OP Agreements	6,013	7,554	459	35			
Direct Assistance - Specified Use	210,137	210,137	-	204			
Direct Assistance - Unspecified Use	424,766	424,719	48	53			
Direct Loan	3,978	3,978	-	102			
Guaranteed/Uninsured Loans	107,772	108,334	1,437	74			
Insurance	639,173	639,173	-	3			
Other	-	-	-	-			
Total	1,604,447	1,596,802	7,645	1,057			

Source: U.S. Census Bureau, Governmental Division

Created: June 27 2006

Last revised: November 02 2006

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Attachment # 1(c)

Federal, State, and Local Governments Federal Assistance Award Data System 2003 4th Quarter - Summary Table

Main

Back To 2003 4th Quarter FAADS

DELAWARE		Dollar Amounts in Thousands				Record Count
Type of Assistance	Total Funding	Federal Funding	Non-Federal Funding			
Block Grant	2,041	2,041	-			6
Formula Grant	305,359	287,375	21,984			458
Project Grant	108,207	102,392	5,814			508
CO-OP Agreements	20,627	8,147	12,480			63
Direct Assistance - Specified Use	201,945	201,945	-			220
Direct Assistance - Unspecified Use	427,589	427,940	48			58
Direct Loan	14,950	14,959	-			15
Guaranteed/Uninsured Loans	190,894	128,647	2,398			73
Insurance	503,311	503,311	-			5
Other	-	-	-			-
Total	1,819,421	1,776,696	42,725			1,387

Source: U.S. Census Bureau, Governmental Division

Created: August 4 2004

Last revised: August 08 2004

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Attachment # 1(d)

Federal, State, and Local Governments Federal Assistance Award Data System 2003 3rd Quarter - Summary Table

Back to 2003 3rd Quarter FAADS

DELAWARE		Dollar Amounts in Thousands				Record Count
Type of Assistance	Total Funding	Federal Funding	Non-Federal Funding			
Block Grant	1,936	1,936	-			6
Formula Grant	227,559	219,051	8,508			437
Project Grant	103,172	100,834	2,338			364
CO-OP Agreements	4,346	7,324	-2,978			32
Direct Assistance - Specified Use	211,362	211,362	-			267
Direct Assistance - Unspecified Use	425,810	425,776	43			52
Direct Loan	1,842	1,842	-			10
Guaranteed/Uninsured Loans	120,274	119,280	994			68
Insurance	444,568	444,568	-			3
Other	-	-	-			-
Total	1,540,898	1,531,993	8,905			1,239

Source: U.S. Census Bureau, Governments Division

Created: June 3, 2004

Last revised: July 02, 2004

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Page Last Modified: July 02, 2004

Attachment # 2

STATE OF DELWARE
 STATEMENT OF REVENUES, EXPENDITURES AND CHANGES
 IN FUND BALANCES (DEFICITS)
 GOVERNMENTAL FUNDS
 FOR THE YEAR ENDED JUNE 30, 2004
 (Expressed in Thousands)

	General	Federal	Local School District	Capital Projects	Total Governmental Funds
REVENUES					
Personal taxes	\$ 782,369				\$ 782,369
Business taxes	1,359,569				1,359,569
Other tax revenue	240,939		\$ 290,745		531,684
Licenses, fees, permits and fines	295,379	\$ 31	828		296,238
Rentals and sales	22,347	14	29,432		51,793
Federal government	70,735	841,798	1,347		913,880
Interest & other investment income	30,713	9	5,284	\$ 103	36,109
Other	253,259		41,825	3	295,087
TOTAL REVENUES	3,055,310	841,852	369,461	106	4,266,729
EXPENDITURES					
Current:					
General government	406,179	10,806			422,785
Health and children's services	847,665	560,311			1,407,976
Judicial and public safety	410,876	26,764			439,640
Natural resources and environmental control	131,469	34,491			165,960
Labor	27,649	35,067			62,716
Education	1,023,950	132,245	345,042		1,501,237
Payment to component unit - General government	1,952				1,952
Education	67,960	2,461		3,000	73,361
Capital outlay				162,154	162,154
Debt service:					
Principal	94,522				94,522
Interest and other charges	39,246				39,246
Costs of issuance of debt				515	515
TOTAL EXPENDITURES	3,051,406	809,945	345,042	165,669	4,372,064
REVENUES OVER (UNDER) EXPENDITURES	3,902	31,907	24,419	(165,563)	(105,335)
OTHER SOURCES (USES) OF FINANCIAL RESOURCES					
Transfers in	399,037		10,849		415,886
Transfers out	(56,195)	(1)	(38,655)	(78,459)	(173,326)
Issuance of general obligation bonds				327,218	327,218
Premiums on bond sales				22,048	22,048
Payment to bond refunding agent	(79,882)				(79,882)
TOTAL OTHER SOURCES (USES) OF FINANCIAL RESOURCES	262,957	(1)	(21,819)	270,807	511,944
Net change in fund balances	266,959	31,906	2,600	105,244	406,609
Fund balances (deficits) - beginning	949,053	(16,506)	111,593	(61,639)	982,501
Fund balances - ending	\$ 1,216,012	\$ 15,400	\$ 114,193	\$ 43,605	\$ 1,389,110

See Accompanying Notes to the Financial Statements

Attachment # 3

The State receives significant financial assistance from the federal government in the form of grants and entitlements. The right to these resources is generally conditioned upon compliance with terms and conditions of the grant agreements and applicable federal regulations, including the expenditure of the resources for eligible purposes. Substantially all grants are subject to financial and compliance audits by the grantors. Any disallowances as a result of these audits become a liability of the State. The State does not believe that the liabilities that may result from such audits for periods through June 30, 2004 would have a material effect on its financial position or the results of operations.

The State Lottery has discharged its primary responsibility for payment of annual installments (generally 14 to 20 years) to winners of jackpots greater than \$150,000 by purchasing annuities from private insurance companies. The Lottery remains liable for future periodic payments of deferred prize obligations (approximately \$11.8 million at June 30, 2004) in the event that the annuity issuers default on their obligations.

NOTE 18. SUBSEQUENT EVENT*DelDOT Fund*

On October 20, 2004, the Delaware Transportation Authority issued \$167.6 million in Transportation System Senior Revenue Bonds. These serial bonds mature between July 1, 2005 and July 1, 2024 and bear average interest rates of 3.89%. A portion of these proceeds, \$73.5 million was used to advance refund \$67.4 million of senior bonds. The remaining funds were used to provide funds for capital improvements to the State's transportation system.

NOTE 19. PRIOR PERIOD ADJUSTMENT*DELDOT Fund*

A prior period adjustment in the amount of \$2,684,000 was made to correct errors in the calculation of depreciation for certain revenue and service vehicles, restating net assets at June 30, 2003 from \$2,763,015,000 to \$2,760,331,000.

*Component Units**Delaware State Housing Authority*

Beginning net assets of the Authority as of June 30, 2003 were restated for prior period adjustments. The adjustments principally relate to the HOME Program loan modification forgiving portion of accrued interest. Net assets of the Authority as of June 30, 2003 have been restated from \$223,388,000 to \$223,074,000.



STATE OF DELAWARE
DEPARTMENT OF FINANCE
DIVISION OF ACCOUNTING

820 SILVER LAKE BOULEVARD
SECOND FLOOR, SUITE 200, (D570C)
DOVER, DELAWARE 19904

FAX: (302) 739-1200

TELEPHONE: (302) 672-5500

July 9, 2007

Nina Shahin
103 Shinnecock Rd.
Dover, DE 19904

Ms. Shahin,

We are in receipt of your Freedom of Information Act (FOIA) document request form. We have reviewed your request and are providing you with an estimate of your request fee.

Our fee for this request will be based on the standard hourly rate and administrative charges, as set forth on the document request form. We estimate that our fee for these services will be approximately \$682.50 (22.5 hours and 30 copies). However, in the event that we encounter unusual circumstances that would require us to expand the scope of the request, and/or if we anticipate our fees exceeding the aforementioned fee, we will adjust our estimate, and obtain your prior approval before continuing with the request.

If you agree to the terms of this request, please sign the copy of this letter in the space provided and return the original signed letter to me, keeping a fully-executed copy for your records. We will begin the work as soon as we receive your signed copy.

Please contact me with any questions you may have.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Trisha Neely", enclosed within a large, loopy oval flourish.

Trisha Neely, Director

ACCEPTED AND AGREED:

By: Nina Shahin

Date